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09/627,731

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7/28/2000

First Named Inventor

Joon Maeng

Art Unit

2174

Examiner Name

Nhon D. Nguyen

Attorney Docket Number

38715-P013US

ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

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Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

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Information Disclosure Statement

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Certified Copy of Priority Document(s)

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Drawing(s)

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Licensing-related Papers

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Petition

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Petition to Convert to a

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Provisional Application

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Winstead Sechrest & Minick P.C.

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Printed name

Edwin E. Richards, II

Date

~~April~~, 2006 **MAY 1, 2006**

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~~April~~, 2006 **MAY 1, 2006**

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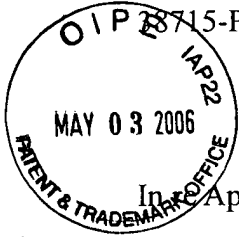
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ATTORNEY DOCKET NO.

8715-P013US

PATENT

09/627,731



BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Application of: Joon Maeng

Serial No.: 09/627,731

Filed: July 28, 2000

Group Art Unit: 2174

Confirmation No.: 2827

Examiner: Nhon D. Nguyen

Title: SYSTEM AND METHOD FOR GENERATING INVISIBLE NOTES ON
A PRESENTER'S SCREEN

**AMENDED APPEAL BRIEF IN RESPONSE TO NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF UNDER 37 C.F.R. 41.37**

Mail Stop Appeal Brief-Patents
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In response to the Notification of Non-Compliant Appeal Brief (37 C.F.R. 41.37) mailed April 3, 2006, Appellant submits this Amended Appeal Brief.

Appellant believes this newly submitted brief contains the items required under 37 C.F.R. § 41.37(c) and that those items are listed under proper headings and are in the proper order. Furthermore, this newly submitted brief contains an Evidence Appendix and a Related Proceedings Appendix. Also, as discussed in two separate telephone conferences with Examiner Mylinh Tran and Supervisory Patent Examiner Weilun Lo on April 26, 2006, box 5 (regarding 37 C.F.R. § 41.37(c)(1)(v)) was mistakenly checked on the Notification of Non-Compliant Appeal Brief (37 C.F.R. 41.37) mailed April 3, 2006. Appellant appreciates the Examiners'

reconsideration of this matter. Regardless, the newly submitted brief contains a concise statement of each ground of rejection presented for review (37 C.F.R. § 41.37(c)(1)(v)).

I. REAL PARTY IN INTEREST

The real party in interest is Forgent Networks, Inc., which is the assignee of the entire right, title and interest in the above-identified patent application.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant, Appellant's legal representative or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-26 are pending in the Application. Claims 1-26 stand rejected. Claims 1-26 are appealed. Appendix A contains the full set of pending claims.

IV. STATUS OF AMENDMENTS

The Appellant's response to the Office Action having a mailing date of July 15, 2003, has been considered, but the Examiner indicated that it did not place the application in condition for allowance because Appellant's arguments were deemed unpersuasive.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is directed to a system and method for electronic-based communication between a plurality of remote users. Specification, page 4, lines 5-6. Specifically, in one embodiment, the system includes a plurality of remote workstations, interconnected via the Internet or other communication network, such as a videoconferencing system. Specification, page 4, lines 5-11 and 23-24. Using the workstations, the users may

simultaneously (or asynchronously) view a target file, which may be, for example, a text file, a graphic file, a combination thereof, or any type of file. In an example embodiment, the target file may be a project on which the users are collaborating, such as a report, presentation, publication, technical design, or the like. Specification, page 7, lines 20-27. Further, in an example embodiment, the system may permit one or more of the users to view additional information, such as annotations or notes that relate to the target file. Specification, page 4, lines 12-13; page 5, lines 15-18. Such additional information may be part of the target file or it may be a separate file that corresponds to the target file. Specification, page 5, lines 18-20.

In a method of using the system, a group of users may make a presentation occurring via a global communication network, such as the Internet, videoconferencing system, or the like. Specification, page 4, lines 5-7. Alternately, such presentation may occur at a single location, such as a meeting room, conference or the like. Typically, such a presentation is given by one of the users (the "presenter" or "leader"). A leader may operate a workstation to access and control the presentation. Such a workstation may have a local display for the leader to view, as well as means to deliver the presentation to the others.

Using the system, the leader may access the target file, which contains the material to be displayed in the presentation, which may consist of slides, viewgraphs, animations, or the like, and display the file to the other users. As discussed above, such users may be remotely located, or may be at the same location as the leader. In an example embodiment, the leader may also access an annotation file for display on the local display. For example, the annotation file may contain the leader's notes regarding the presentation. In certain embodiments, the annotation file may be part of the target file, but be encoded so that it is only displayed on the local display. The

annotation file may be displayed as an overlay to the target file, so that the leader can view both the target file, as seen by all users, and the annotation file, which is only seen by the leader. Specification, page 5, lines 15-20.

In certain embodiments in which users are remotely connected, more than one user may have access to annotation files relating to the target file, so that each of these users can view individual annotation files. Thus, the group may communicate and/or collaborate remotely on the target file. Specification, page 4, line 11. In an example embodiment, the users having access to his or her annotations regarding the target file. Specification, page 5, lines 6-7. Similarly, the users may be connected via telephone, electronic mail, video mail, or the like. Specification, page 5, lines 1-5.

In other embodiments, a system may be used in connection with customer service systems and the like to permit remote electronic communication between a customer and a representative. Specification, page 7, lines 28-30; page, 8, lines 7-9. In an example embodiment, such a system may include a user workstation located at a customer service location and a remote workstation at a customer site (such as a home computer). Using such an arrangement, the customer service representative may access a file relating to the customer and provide it for display at both the representative location and the customer location. Specification, page 8, lines 3-12. Further, the representative may access and display an annotation file solely at the representative location. Specification, page 8, lines 14-15. Using such a system, the representative and customer may discuss particulars regarding a customer account while both have access to certain account information, and the representative has access

to additional account information, such as a customer ranking, notes from other representatives, and the like.

VI. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 2, 4, 10, 11-16, 19-21, 25 and 26 stand rejected under 35 U.S.C. 102(e) as being anticipated by Ludwig et al (U.S. Patent No. 6,343,314) (hereinafter "Ludwig"). Claims 3, 5-9, 17, 18 and 22-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig in view of Kumar et al (U.S. Patent No. 6,342,906) (hereinafter "Kumar").

VII. ARGUMENT

A. Claims 1, 2, 4, 10, 11-16, 19-21, 25 and 26 are not properly rejected under 35 U.S.C. 102(e) as being anticipated by Ludwig.

A rejection under § 102(e) is proper only when "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co of Cal.*, 814 F. 2d 628, 631, 2 U.S.P.Q. 2d 1051,1053 (Fed. Cir. 1987); *see also* MPEP § 2131. Accordingly, if any one element is missing within the prior art reference, the rejection must fail. "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989); *see also* MPEP § 2131. Moreover, prior art that is not recognized as solving the problem solved by the invention is not relevant to a rejection under § 102(e). *See In re Self*, 671 F. 2d 1344, 213 U.S.P.Q. 1, 7 (CCPA 1982); MPEP § 2131.05.

As a result, the Examiner's *prima facie* case of anticipation fails, since Ludwig does not teach "overlay" as recited by independent claims 1, 11, 19 and 25.

Ludwig discloses creation by an expert of a graphical image 220 that is displayed with annotations performed by the expert or any other participant with a drawing tool 221 (Figure 41,

column 36, lines 61-66). Each of Appellant's independent claims 1, 11, 19 and 25 recite an "overlay" viewable by some but not other views or users.

Appellant respectfully submits that Ludwig fails to teach, suggest or disclose an "overlay" as recited by claims 1, 11, 19 and 25. The Examiner's rejection appears to be based upon the image 221 depicted in Figure 37, which covers over to make unviewable the image 210 of Figure 36 (see office action dated July 15, 2003, page 2). The Examiner maintains the rejection by construing the term "overlay" as disclosed by a file that makes unviewable a file beneath the overlay. The Examiner comments that the "invention is about 'transparent overlay' while the claimed language is only about 'overlay'" with the two terms having different implications." (*Id.* at 10; *see also* Advisory Action dated January 26, 2004, page 2).

Appellant respectfully submits that the term "overlay" is clearly defined in Appellant's written description to preclude the Examiner's suggested construction:

Specifically, the annotation file may be displayed as an overlay to the target file, so that the leader can view both the target file, as seen by all users and the annotation file, which is seen only by the leader. (Page 2, lines 31-33).

The written description describes an overlay junction 50, which displays the overlay by replacing pixel values according to the annotation file (page 7, lines 20-27). The Examiner's suggested construction of the term overlay directly contradicts Appellant's written description and would defeat the very purpose of Appellant's invention by preventing a user from viewing the user's annotations over the user's presentation. Ludwig fails to teach, suggest or disclose any display in which the image 220 is visible through the image 221 and therefore fails to teach, disclose or suggest the recited "overlay."

B. Dependent claims 3, 5-9, 17, 18 and 22-24 are not properly rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig in view of Kumar.

Appellant respectfully submits that the Examiner has not presented a *prima facie* case of obviousness as to these claims.

1. Standards for Prima Facie Rejection

Appellant respectfully cites the case of *In re Oetiker*, 977 F.2d 1443, 24 U.S.P.Q. 2d 1443 (Fed. Cir. 1992), which recognizes that "the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." 977 F.2d at 1444, 24 U.S.P.Q. 2d at 1444, citing *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). "If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent." *Id.*, citing *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985); *In re Rinehart*, 531 F.2d 1048, 1052, 189 U.S.P.Q. 143, 147 (CCPA 1976).

A rejection based on 35 U.S.C. § 103(a) must establish three basic criteria in order to establish a *prima facie* case of obviousness. "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or combined referenced teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 706.02(j); *see also* § 2142. Specifically, since "invention itself is the process of combining prior art in a non-obvious manner," to establish obviousness the "Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the

manner claimed." *In re Rouffet*, 47 U.S.P.Q. 2d 1453, 1458 (Fed. Cir. 1998). For their analysis, examiners are forbidden from "the use of hind-sight in the selection of references that comprise the case of obviousness." *Id.*

2. Claim 3

The Examiner incorporates by reference the rejection of claim 2, which depends from claim 1 (§ 102(e) rejection on the basis of Ludwig). However, as Appellant demonstrated in response to that rejection (which response Appellant incorporates herein by reference), Ludwig does not contain all of the elements of claim 1. Therefore, the Examiner has not shown all of the claim limitations in claim 3 in the references cited.

Further, the Examiner has not properly pointed to the suggestion in the art to combine Ludwig and Kumar in the manner suggested. The Examiner states that it would have been obvious to an artisan at the time of the invention to use the teaching from Kumar of displaying the second file as an overlay to the first file in Ludwig's method since it would allow the user to put notes or comment on the first file. Paper No. 7, page 7.

This idea does not appear in either Ludwig or Kumar. Neither, however, does the suggestion appear in the instant Application. The Examiner attempts to assert that Kumar provides the motivation to combine the references. However, all the Examiner has cited in Kumar is the description of a displaying a file on workstations. This does not support the specific combination of the references cited by the Examiner for addressing claim 3. This is also true for claim 7, which is dependent on claim 6. It is further true for claim 17, which is dependent on claim 16. Similarly, it is true for claims 22, 23 and 24, which are dependent on claims 21, 20 and 19 respectively.

Appellant therefore asserts, respectfully, that a *prima facie* case of obviousness is not present as to claim 3 and that the rejection should be withdrawn.

3. Claim 5

The Examiner incorporates by reference the rejection of claim 4, which depends from claim 1 (§ 102(e) rejection on the basis of Ludwig). However, as Appellant demonstrated in response to that rejection (which response Appellant incorporates herein by reference), Ludwig does not contain all of the elements of claim 1. Therefore, the Examiner has not shown all of the claim limitations in claim 5 in the references cited.

Further, the Examiner has not properly pointed to the suggestion in the art to combine Ludwig and Kumar in the manner suggested. The Examiner states that it would have been obvious to an artisan at the time of the invention to use the teaching from Kumar of said first file and said second file are a single file, and further wherein said second file contains a code to indicate that said second file is not for display at said secondary workstation in Ludwig's method since it would serve as security purpose. Paper No. 7, page 7.

This idea does not appear in either Ludwig or Kumar. Neither, however, does the suggestion appear in the instant Application. The Examiner attempts to assert that Kumar provides the motivation to combine the references. However, all the Examiner has cited in Kumar is the description of a displaying a file on workstations. This does not support the specific combination of the references cited by the Examiner for addressing claim 5.

Appellant therefore asserts, respectfully, that a *prima facie* case of obviousness is not present as to claim 5 and that the rejection should be withdrawn.

4. Claim 6

The Examiner incorporates by reference the rejection of claim 3, which depends from claim 2, which depends from claim 1 (§ 102(e) rejection on the basis of Ludwig). However, as Appellant demonstrated in response to that rejection (which response Appellant incorporates herein by reference), Ludwig does not contain all of the elements of claim 1. Therefore, the Examiner has not shown all of the claim limitations in claim 6 in the references cited.

Further, the Examiner has not properly pointed to the suggestion in the art to combine Ludwig and Kumar in the manner suggested. The Examiner states that it is inherent in Ludwig's system that the expert's workstation (primary workstation) comprises a plurality of memory units, and wherein said first file is stored in a first memory unit and said second file is stored in a second memory unit. Paper No. 7, page 9.

This idea does not appear in either Ludwig or Kumar. Neither, however, does the suggestion appear in the instant Application. However, all the Examiner has cited is that it is inherent for Ludwig's expert's station to have a plurality of memory units.

Appellant therefore asserts, respectfully, that a *prima facie* case of obviousness is not present as to claim 6 and that the rejection should be withdrawn.

5. Claim 8

The Examiner incorporates by reference the rejection of claim 7, which depends from claim 6, which depends from claim 3, which depends from claim 2, which depends from claim 1 (§ 102(e) rejection on the basis of Ludwig). However, as Appellant demonstrated in response to that rejection (which response Appellant incorporates herein by reference), Ludwig does not

contain all of the elements of claim 1. Therefore, the Examiner has not shown all of the claim limitations in claim 8 in the references cited.

Further, the Examiner has not properly pointed to the suggestion in the art to combine Ludwig and Kumar in the manner suggested. The Examiner states that Ludwig teaches the global computer network comprises a video conferencing system. Paper No. 7, page 8.

This idea does not appear in either Ludwig or Kumar. Neither, however, does the suggestion appear in the instant Application. The Examiner attempts to assert that Kumar provides the motivation to combine the references. However, all the Examiner has cited in Ludwig is a global computer network comprises a video conferencing system. This does not support the specific combination of the references cited by the Examiner for addressing claim 8.

Appellant therefore asserts, respectfully, that a *prima facie* case of obviousness is not present as to claim 8 and that the rejection should be withdrawn.

6. Claim 9

The Examiner incorporates by reference the rejection of claim 3, which depends from claim 2, which depends from claim 1 (§ 102(e) rejection on the basis of Ludwig). However, as Appellant demonstrated in response to that rejection (which response Appellant incorporates herein by reference), Ludwig does not contain all of the elements of claim 1. Therefore, the Examiner has not shown all of the claim limitations in claim 8 in the references cited.

Further, the Examiner has not properly pointed to the suggestion in the art to combine Ludwig and Kumar in the manner suggested. The Examiner states that Ludwig teaches the primary user comprises a customer service representative and said secondary viewer comprises a

customer, and the internet is a global network connecting millions of computers. Paper No. 7, page 8.

This idea does not appear in either Ludwig or Kumar. Neither, however, does the suggestion appear in the instant Application. The Examiner attempts to assert that Kumar provides the motivation to combine the references. However, all the Examiner has cited in Ludwig is a primary user comprises a customer service representative and said secondary viewer comprises a customer. This does not support the specific combination of the references cited by the Examiner for addressing claim 9.

Appellant therefore asserts, respectfully, that a *prima facie* case of obviousness is not present as to claim 9 and that the rejection should be withdrawn.

7. **Claim 18**

The Examiner incorporates by reference the rejection of claim 18, which depends from claim 17, which depends from claim 16, which depends from claim 15, which depends from claim 14, which depends from claim 13, which depends from claim 11 (§ 102(e) rejection on the basis of Ludwig). However, as Appellant demonstrated in response to that rejection (which response Appellant incorporates herein by reference), Ludwig does not contain all of the elements of claim 1. Therefore, the Examiner has not shown all of the claim limitations in claim 8 in the references cited.

Further, the Examiner has not properly pointed to the suggestion in the art to combine Ludwig and Kumar in the manner suggested. The Examiner states that Ludwig teaches a common annotation file, said common annotation file relating to said first file and accessible by more than one of said plurality of remote users. Paper No. 7, page 9.

This idea does not appear in either Ludwig or Kumar. Neither, however, does the suggestion appear in the instant Application. The Examiner attempts to assert that Kumar provides the motivation to combine the references. However, all the Examiner has cited in Ludwig is a common annotation file, said common annotation file relating to said first file. This does not support the specific combination of the references cited by the Examiner for addressing claim 18.

Appellant therefore asserts, respectfully, that a *prima facie* case of obviousness is not present as to claim 18 and that the rejection should be withdrawn.

Accordingly, Appellant submits that independent claims 1, 11, 19 and 25 are allowable as are dependent claims 2-10, 12-18, 20-24 and 26 which depend, respectively, therefrom.

VIII. CLAIMS APPENDIX

Attached hereto is an appendix containing a copy of the claims involved in the appeal.

IX. EVIDENCE APPENDIX

Attached hereto is an Evidence Appendix.

X. RELATED PROCEEDINGS APPENDIX


Attached hereto is a Related Proceedings Appendix.

XI. CONCLUSION

As a result of the foregoing it is respectfully asserted by the Appellant that claims 1-26 of the application are in condition for allowance. Appellant has demonstrated that no claim is anticipated by the Ludwig patent. Appellant has also demonstrated that a *prima facie* case of obviousness has not been shown with regard to the Ludwig patent in light of the Kumar patent. Appellant respectfully requests reversal of the rejections and that claims 1-26 should be passed to issue.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.
Attorneys for Appellant

By: 

Kelly K. Kordzik
Reg. No. 36,571
E.E. "Jack" Richards, II
Reg. No. 53,514

P.O. Box 50784
Dallas, Texas 75201
512.370.2851

CLAIMS APPENDIX

1. A method of displaying an electronic file to a primary user having a primary workstation, said primary workstation coupled to a global computer network, and at least one secondary viewer at a remote location, comprising:

accessing a first file and displaying said first file on said primary workstation;
displaying said first file at said remote location on a secondary workstation,
said secondary workstation coupled to said global computer network;
accessing a second file, said second file comprising information relating to
said first file, and
displaying said second file only on said primary workstation as an overlay to
said first file, wherein said second file is not viewable by said at least
one secondary viewer.

2. The method of claim 1, wherein said second file comprises annotations to said first file.

3. The method of claim 2, wherein displaying further comprises displaying said first file on plural secondary workstations and wherein said second file is displayed as an overlay to said first file on selected but not all of said plural secondary workstations.

4. The method of claim 1, wherein said first file and said second file are stored in a server computer.

5. The method of claim 4, wherein said first file and second file are a single file, and further wherein said second file contains a code to indicate that said second file is not for display at said secondary workstation.

6. The method of claim 3, wherein said primary workstation comprises a plurality of memory units, and wherein said first file is stored in a first memory unit and said second file is stored in a second memory unit.

7. The method of claim 6, wherein said second file is overlaid over said first file using means for coupling said first file and said second file.

8. The method of claim 7, wherein said global computer network comprises a videoconferencing system.

9. The method of claim 3, wherein said primary user comprises a customer service representative and said secondary viewer comprises a customer, and said global computer network comprise the Internet.

10. The method of claim 1, further comprising activating said first file for editing by said at least one secondary view.

11. A method of synchronous collaboration between a plurality of remote users, each of said plurality of remote users having a user workstation, each of said user workstations being interconnected via a network of interconnected computers, wherein a first one of said plurality of remote users is a host, comprising:

accessing a file for said collaboration, said file having a first and second states, in which data stored in said first state is displayed to all of said plurality of remote users, and in which data stored in said second state is displayed only to said host as an overlay to said first state;

displaying said file on said plurality of user workstations, wherein said data stored in said second state is only displayed to said host, and wherein said data stored in said first state is displayed to said host and to said plurality of remote users; and

enabling at least one of said plurality of remote users to edit said data stored in said first state.

12. The method of claim 11, wherein said network comprises a video conference system.

13. The method of claim 11, wherein said file is stored in a location remote to any of said plurality of remote users.

14. The method of claim 13, wherein said file comprises a first file and a second file, wherein said first file comprises said data stored in said first state, and said second file comprises said data stored in said second state.

15. The method of claim 14, wherein said first file and said second file are stored in separate memory units.

16. The method of claim 15, further comprising a plurality of third files, each of said plurality of third files comprising a personal file of one of said plurality of remote users.

17. The method of claim 16, further comprising means for overlaying each of aid plurality of said third files over said first file on respective ones of said user workstations.

18. The method of claim 17, further comprising a common annotation file, said common annotation file relating to said first file and accessible by more than one of said plurality of remote users.

19. A system for videoconferencing, comprising:

a first workstation having at least a first and second memory unit, said first memory unit adapted to store a first file, said second memory unit adapted to store a second file, said second file comprising information relating to said first file;

at least one video display located remote to said first workstation, said at least one video display interconnected to said first workstation and

said first workstation containing programmed instructions to cause the first file to be displayed on both the first workstation and the at least one video display, and to cause the second file to be displayed only on the first workstation as an overlay to said first file.

20. The system of claim 19, wherein said first and second memory units comprise VGA memories.

21. The system of claim 20, wherein said second file comprises an annotation of said first file.

22. The system of claim 21, wherein said first workstation further comprise coupling means to permit said first file and said second file to be displayed on said first workstation.

23. The system of claim 20, wherein said second file is displayed as an overlay to said first file on said first workstation and selected of the video displays but less than all of the video displays.

24. The system of claim 19, wherein said second file contains a code which correlates said second file to said first file.

25. A machine readable storage medium comprising a set of instructions executable by a computer system to implement a method, the method comprising:

accessing a first file and displaying said first file on primary workstation;
displaying said first file on a secondary workstation, said secondary workstation coupled to said primary workstation and located remotely to said primary workstation;
accessing a second file, said second file comprising annotations to first file;
and
displaying said second file only on said primary workstation, wherein said second file is not viewable on said secondary workstation.

26. The machine-readable storage medium of claim 25, wherein the machine-readable storage medium includes any of magnetic storage medium, including disk and tape storage medium, optical storage medium, including compact disk memory and digital video disk storage medium; nonvolatile memory storage medium; volatile storage medium; and modulated, electronic signals.

ATTORNEY DOCKET NO.
38715-P013US

PATENT
09/627,731

EVIDENCE APPENDIX

No evidence was submitted pursuant to §§1.130, 1.131, or 1.132 of 37 C.F.R. or of any other evidence entered by the Examiner and relied upon by Appellant in the Appeal.

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38715-P013US

PATENT
09/627,731

RELATED PROCEEDINGS APPENDIX

There are no related proceedings to the current proceeding.